2017 Tax Reform – Draft Law

As announced in February, the draft law n° 7020 regarding the 2017 Tax Reform proposed by the Government was filed with the Luxembourg Parliament on July 26, 2016.

The main proposed measures are finally the following:

MEASURES AFFECTING COMPANIES

- A progressive reduction of the corporate income tax (CIT) from its current rate of 21% to 19% in 2017, and to 18% in 2018, lowering the current global tax rate from 29.22% to 27.08% in 2017 and 26.01% in 2018 (including the current 7% rate of the contribution to the employment fund and the 6.75% municipal business tax for Luxembourg City) is proposed.
- An additional 15% CIT rate is introduced for companies with taxable profits not exceeding EUR 25,000 per year.
- The ability to carry forward tax losses shall be limited to 17 years with no restriction regarding the deductible amount (contrary to the initial proposal). Losses realized before December 31, 2016 remain deductible with no time-limit.
- A tax depreciation deferral is introduced.
- As from 2016 the roll-over relief for exchange gain on assets is extended to all companies having a non-euro denominated share capital upon request.
- The minimum net wealth tax (NWT) applicable since the tax year 2016 due by so-called “SOPARFIs” (i.e. companies with fixed financial assets and whose cash deposit and transferable assets both exceed EUR 350,000 and 90% of their balance sheet total) will be increased from EUR 3,210 to EUR 4,815.
- The requirement regarding the NWT reserve to be maintained for a 5-year period in case of NWT reduction is clarified ; the NWT reduction is not cancelled in case of transfer of assets and liabilities by way of merger or transfer of seat, provided that the reserve is kept at the level of the beneficiary.
- The 0.24% registration duties imposed on the transfer of a claim shall no longer be applicable. In addition, the registration of lease agreements regarding Luxembourg real estate is no longer required.
- The rates of the investment tax credits are increased from 12 to 13% for the tax credit for additional investment, from 7 to 8% for the tax credit for global investment and from 8 to 9% for the tax credit applicable to specific assets benefiting from the special depreciation. The benefit is extended to assets used in an EEA country (as previously applicable based on the position of the tax authorities).

MEASURES AFFECTING INDIVIDUALS

- New progressive rate scales shall be introduced regarding annual net income exceeding EUR 150,000 and EUR 200,004, which will respectively be taxed at 41% and 42%.
- The temporary equalization tax of 0.5% tax shall be abolished.
- The so called “RELIBI” (withholding tax on interest paid to Luxembourg resident individuals) shall be increased to 20% instead of its current 10% rate.

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ADDITIONAL MEASURES

- Mandatory electronic filing for companies regarding the CIT and NWT tax returns.
- Increase of certain tax fines.
- Clarification of the concept of tax fraud and related consequences.
- Procedure of recourse in warranty ("appel en garantie") against ipso jure or de facto managers/directors of companies available to the tax authorities in case of non-payment of taxes extended to VAT.

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